



The Az POST **Newsletter**

Arizona Peace Officer Standards and Training Board

December 2002

Volume XIII No. 1

AZ POST Updates Rules

They Just Look Different

As some may recall, several years ago we were embarrassed to learn that the AZPOST Rules had not been correctly promulgated and were not in effect. This discovery launched an 18-month effort to bring the Board's rules into conformity with the way we had been doing business all along. It is important to note that the new rules were created to reflect the "way everyone thought things were," and even though they may look and read differently, their implementation will result in NO SIGNIFICANT CHANGE in how you do your business.

The new rules were approved by the Governor's Regulatory Review Council (GRRC) and published by the Secretary of State in July of this year. About half of the rules are effective now, with the remainder (those dealing with minimum

requirements) becoming effective in January 2003. It is important to note that the goal of this rule promulgation was to incorporate all of the changes approved by the Board since 1995 and thought to have been in effect for the past several years. No new provisions were included.

Some important changes in the "Definitions" section are:

"Lapse" - peace officer certification will now lapse after three years. Anyone returning to law enforcement after three years must meet the standards in place at the time of return.

"Service Ammunition" - means munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by

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Meet Your Arizona POST Board



Mr. James Garcia

Perhaps the most difficult position on the Board is that of public member. The public member represents the average citizen, the very public that peace officers serve and the very public whose trust in the profession is essential to law enforcement's success. Sir Robert Peel's second principle of policing recognizes this relationship.

"The ability of the police to perform their task is dependent on public approval of their existence, actions, behavior, and on the ability of the police to secure and maintain public respect."

This principle is as true today as it was in 1829 when written. Mr. James Garcia, the governor's appointee as a public member of POST, demonstrates his understanding of this principle at every meeting in a straightforward and humble way.

"The Board has to maintain the integrity of law enforcement by being consistent and firm in the decisions we make regarding the POST rules," Garcia says. "In the last three years since I have been a Board member, my eyes have been opened to the importance of this position."

Mr. Garcia, who was also recently appointed chairman of the POST Board, has a special understanding of the difficulties that attend the job of peace officer. "I have nothing but respect for the men and women in law enforcement today," says Garcia. "They live in glass houses where everyone is watching them. People expect perfection from our peace officers, and if they make a bad decision, they appear before our Board."

Mr. Garcia's empathy with officers is not theo-

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20 Ways to Build a Kinder Workplace

BY TOM TEREZ

Workplace Consultant

It's not always easy being nice. There are deadlines to meet, conflicts to settle, resources to share, promotions to snag - all of which can pit people against each other. What to do? Here are 20 practical ideas. If you believe that workplaces work better when people get along, scan this list and start living it.

1. Say what you mean, and mean what you say. There's no substitute for authentic communication.

2. Be less inclined to give advice - and more inclined to seek it.

3. Resist the urge to jump to conclusions about people and their motives. Go to the source, get the facts, and then decide.

4. Identify the biggest redeeming quality of that person who's always driving you crazy. Keep it in mind the next

time the two of you interact.

5. When greeting a colleague, skip the mindless how-ya-doin'. Ask a question that shows genuine interest.

6. Go out of your way to say thank you. Sincere appreciation is powerful stuff - it's feedback, recognition, and respect all wrapped in one.

7. If you're overdue in showing gratitude, make up for lost time. Contact everyone who's owed thanks from you, and let them know how much you appreciate their help.

8. When credit and compliments come your way, spread them around to all who helped. And if you think you're solely responsible for that honored achievement, think again.

9. Promise only what you can deliver. If what you deliver falls short, ex-

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Tom Hammarstrom

A Message from the Director

"Adequacy as Excellence"

From time to time I remind myself that Arizona POST is in the adequacy business. When I share this observation, I receive horrified stares from those of us raised on the writings of Tom Peters or other contemporary excellence gurus. However, the fact remains that Arizona POST is charged with setting minimum standards for law enforcement. The task has been to identify the least a person must know, the lowest level of skill, and the minimum acceptable measures of personal integrity a peace officer must exhibit to ensure that public safety is maintained.

It doesn't surprise me that this quest for adequacy has actually resulted in professional excellence. The Board has found that adequacy translates into standards of personal integrity not matched by any other regulated profession. It requires skill and ability far above the average, and has resulted in standards which ensure that every Arizona citizen, regardless of how well resourced their community may be, can have trust and confidence in the officers who serve them.

As the world around us changes, providing new and more difficult challenges to the law enforcement community, POST standards will evolve as well. It's that way we can be sure that no matter where we or our loved ones may travel in this great state, we will continue to be served with excellence - by officers who have met our exceptionally high standard of adequacy.

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Sheriff Clarence Dupnik

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Sheriff Gary Butler

Rules ...

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the peace officer. This will allow agencies to take advantage of new technology such as frangible ammunition.

The deletion of "regular peace officer" and "reserve officer" - the Board no longer differentiates between salaried officers and volunteers. It only concerns itself with an officer's level of authority.

The "Certification of Peace Officers" section now clearly identifies the three-step application process for certification. A person must:

One - Submit a completed application to an agency.

Two - Obtain an appointment from that agency.

Three - Either graduate from an academy or successfully complete the waiver process.

Another important revision is found in the "Minimum Qualifications for Appointment" section. Effective in January every applicant must undergo a polygraph test to verify that they meet all of the minimum qualifications (again, we have been doing it, but now it is official).

"Background Investigation Requirements" now describe the information that applicants must provide, as well as that which the agency must complete. A new Personal History form has been created and disseminated to reflect these changes.

Medical Requirements have been simplified and updated to conform to the Americans with Disabilities Act. There are three medical categories:

Category I - Applicants who have no medical, physical, or mental circumstances that limit the person's ability to effectively and safely perform all the duties of a peace officer. They can be hired with no further documentation or action.

Category II - Individuals with a circumstance that may limit the person's ability to effectively and safely perform all the duties of a peace officer may require a reasonable accommodation by the appointing agency. In these cases the agency decides if the accommodation identified by an AZPOST Board-trained physician can be obliged. If it can, the person may be hired.

Category III - Includes individuals an agency would like to hire, but who despite reasonable accommodation, cannot effectively and safely perform all the duties of a peace officer. In these cases, the agency must submit a letter to the Board with a report from a Board-trained physician identifying the medical limitations and proposed

accommodations, including recommended restrictions on the person's activities. The Board will then determine the person's eligibility, and define requirements for accommodations and restrictions on the applicant's certification.

(The key is for agencies to use Board-trained physicians for medical assessment. They act as the Board's medical experts and possess an AZPOST Medical Screening Manual that outlines the medical standards.)

Some additional highlights are:

Rules dealing with behavior that can result in denial, revocation, suspension, or cancellation of an officer's certified status have been clarified.

A new rule allows the Board to deal expeditiously with officers who fail to meet the annual re-training and firearms qualification requirements.

There was no change to the 585-hour Basic Peace Officer course.

The waiver test process for individuals from other states has been simplified.

The requirements for basic academies remain the same.

Some minor administrative changes were made to the training reimbursement rule to clarify how the Board supports agencies financially.

There were a few very minor changes to ensure that Article II, which applies only to the Arizona Department of Corrections, matches Article I (peace officers) where appropriate.

GRRC required us to reorganize a number of sections to comply with its format. The most sweeping of these changes was the creation of a section called, "Certification Retention Requirements." This section now contains all of the continuing training, instructor, proficiency training, and annual firearms qualification requirements. These are the same standards as before, just organized differently.

Another substantial reorganization is found in a new section titled, "Minimum Course Requirements." This section contains all of the standards for curriculum and training providers. All of these requirements existed previously but now have been centralized.

Anytime the rules change we anticipate a learning curve for everyone as we all gain experience with the new language and requirements. Just give us a call, if we can't answer your questions over the phone, we will schedule a visit to your department to provide training. If you have not yet received a copy of the new rules, we will provide them upon request or they can be printed directly from the web at www.azpost.state.az.us.

Legal Update

Fundamentally Ambiguous Question Cannot Give Rise to False Statement Conviction

The Ninth Circuit U.S. Court of Appeals held in U.S. v. Culliton, 300 F.3d 1139, (August 22, 2002), that certain questions on an FAA medical form were so ambiguous that erroneous answers could not constitutionally form the basis for a false statement prosecution.

James Culliton injured his head in a reclining-chair accident. He was treated for vision problems, dizziness, headaches, memory loss and depression. He sued, among others, Viking Office Products. Viking asserted a defense of insurance fraud. Viking also sought criminal prosecution for false statement.

Culliton was a pilot and about two years after the injuries, he answered "NO" to the following questions on an annually required FAA medical form. "Have you ever had or have you now, any of the following? . . . (b) dizziness, . . . (d) eye or vision trouble except for glasses, [and] . . . (m) mental disorders of any sort: depression, anxiety, etc." *Id.* at 1140. Culliton was convicted of violating 18 U.S.C. §1001, making a false statement.

The court recognized the general rule that the existence of some ambiguity in a falsely answered question will not shield the respondent from a false statement or perjury prosecution. However, it found the questions quoted above to be so fundamentally ambiguous that due process forbids prosecution. The Court said a question is fundamentally ambiguous when men of ordinary intelligence could disagree about its meaning or when it could be understood differently by the questioner and answerer.

The relevance of this case for POST purposes is straightforward. Due process requires POST to look at the questions asked as well as the answers given before deciding whether to pursue a case for dishonesty. If the answers can reasonably and fairly be seen as misunderstanding or confusing, rather than dishonesty, POST will generally give the officer the benefit of the doubt.

Driving Track Finished

The driving track at CARLOTA has just been completed and approved by POST. Director Sam Weiss has completed a mass mailing of the Operations Manual.

If you would like more information or would like to schedule the track for use, please call Sam Weiss at (520) 426-4365.

AZ POST Quality of Services Survey

In August, we sent a quality of services survey to all 168 agency heads in Arizona. The survey requested scores on 10 critical services provided by POST on a 1 to 10 scale, with 10 being the highest rating. We received 111 responses for an excellent return rate of 66%.

The results are both informative and gratifying. We learned what we are doing right as well as what areas are available for the most improvement. Your feedback is invaluable and much appreciated. The survey topics and scores are as follows:

1. In-service Training:

a.	Timeliness	7.35
b.	Accessibility	6.86
c.	Presentation	7.92

2. Telecourse:

a.	Timeliness	7.61
b.	Accessibility	7.91
c.	Effective Presentation	7.79

3. Audits: 9.01

4. Staff:

a.	Courtesy	9.25
b.	Responsiveness	8.98
c.	Fairness & Impartiality	9.13

Overall Rating: 8.17

Force Threat Gives Police More Leverage

In the 6th Circuit, police may order an occupant out of a car in a situation where the officers have reason to believe an occupant is armed and dangerous.

The officers in this case encountered a suspect in the course of an investigation of drug trafficking at a trailer park in Morristown, TN. The officers were making "traffic stops" just to look for other illegal activity, particularly drug dealing at 1 a.m. in a known area of criminal activity.

As two officers left the trailer park, they saw Charles Bailey's car enter the park on the wrong side of the road. An officer ordered Bailey to stop. When he did not, the officer got out of his cruiser and pursued Bailey's car on foot.

The defendant eventually stopped his car and the officer approached the car for a talk. Because Bailey kept reaching into the floorboard, the officer told him to step out of the car. While they waited for a drug dog, Bailey put his hand in his pocket and the officer saw the butt of a gun. The officers then handcuffed and arrested Bailey, followed the dog's alert and found two more guns and three ounces of cocaine.

Bailey alleged the initial stop of his car, his arrest and the searches were all in violation of his 4th Amendment rights. District court granted Bailey's motion to suppress. The court found the officer's stop was not justified at its inception because it was a "pretext."

In other words, the traffic violation was not the real reason for the stop. Moreover, the lower court held, their actions were not reasonably related in scope to the circumstances that justified the interference in the first place.

The appeals judges concluded Bailey's behavior following the stop in conjunction with the surrounding circumstances gave rise to sufficient reasonable suspicion under Terry to justify detention beyond the effectuation of his traffic stop.

Bailey was known to carry weapons, the initial stop took place at 1 a.m. in a known area of criminal activity, Bailey reached under the floorboard, the detention of Bailey lasted less than two minutes, and the officer did not restrain Bailey or sat him down. Inf.: U.S. v. Bailey, 01-5438, 6th Circ., Aug. 6. - Crime Control Digest

Workplace ...

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plain why.

10. When things go wrong, resist the urge to assign blame. It's the system that usually fails, so fix the system, not the people.

11. Widen your social circle. If you always go to lunch with the same group, invite someone new.

12. Give a gift for no reason. If you work with nature lovers, order some plants or flowers. If the group has a chronic sweet tooth, get a few candy dishes and keep them full.

13. When a rumor reaches your ear, let it go out the other.

14. Step down from the treadmill of daily tasks and have an inefficient chat with a colleague. If it's someone you rarely engage in conversation, all the better.

15. Show interest in someone else's interests. Okay, maybe you're not dying to hear about Pat's passion for stamp collecting, but Pat will be thrilled you asked.

16. When you take a stand and later realize it's the wrong stand, be honest enough to say so.

17. Involve more people in weighing options and making decisions. There's incredible brainpower all around you, so why not put it to work?

18. If you tend to send e-mails to colleagues who are an easy walk away, give the computer a rest. Get up, walk over, and have a no-tech conversation.

19. Try going a whole day without making judgments about people. Good luck - it's tough!

20. Don't wait for kindness to come your way. Gandhi had it right: We must be the change we wish to see in the world.

ABOUT THE AUTHOR

Tom Terez is a speaker, consultant, and author of *22 Keys to Creating a Meaningful Workplace*. His web site, BetterWorkplaceNow.com, is filled with tools for building a great work environment. Write to Tom @ BetterWorkplaceNow.com or call 614-571-9529.

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A Thought on Happiness

Happiness is not a matter of good fortune or worldly possessions. It's a mental attitude. It comes from appreciating what we have, instead of being miserable about what we don't have. It's so simple - yet so hard for the human mind to comprehend. -- Author Unknown

Meet an Arizona POST Staff Member

If you have ever called POST about an officer's certification, or with questions concerning training records or POST approved instructors, you probably spoke to Carol Muskus. Carol is an administrative secretary to the Standards and Compliance Unit which consists of one manager and four compliance specialists. Carol started working at POST as a temp, and became a permanent employee in 1995.

"The best part of my job is meeting so many nice people in the law enforcement community," Carol said. "The officers I interact with on a daily basis are pleasant, helpful, and often funny." Carol's duties include the decertification process of peace officers, maintenance of a database that has over 13,000 peace officer records, and all statistics involved with the unit.

Being brought up in Wisconsin, it was Carol's goal from an early age to get out and see the world. At the age of 24, Carol joined the U.S. Army and trained at Ft. McClellan in Alabama.

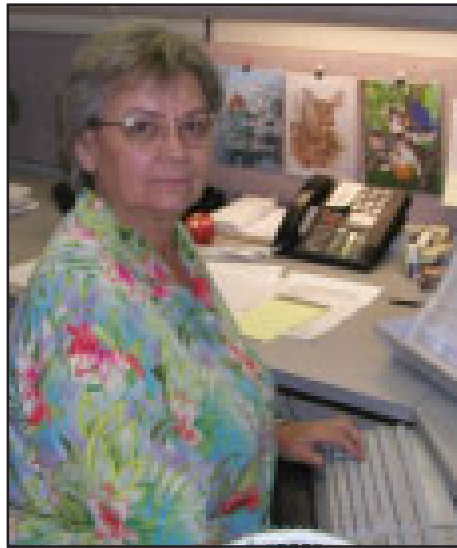
"I really wanted to be stationed in Arizona, but found myself in Brooklyn at the Ft. Hamilton Army base at the foot of the Verrazano Narrows Bridge. For a country girl, New York City was a real eye opener. I couldn't get over the fact they put ice cubes in milk."

After 18 months in New York, Carol was stationed in Heidelberg, Germany, and lived there for four years. Her 30th birthday was spent in Paris, France, where she visited the Eiffel Tower, the Cathedral of Notre Dame and the Louvre.

"It was a wonderful birthday and one that I won't forget," Carol said.

After Germany, Carol worked for eight years at the Pentagon in Washington D.C. She worked very close to the spot where the plane crashed on September 11, 2001.

"I held a position with the Army Discharge Review Board where we handled re-



Carol Muskus

quests for change in types of discharge. It was there that I met the widow of the only man shot for desertion in the Army's history, Mrs. Eddie Slovik. I saw two presidents in person, witnessed demonstrators protesting all around the Pentagon holding hands, was devastated by the airplane crash into the Potomac, and watched the four-hour Bi-Centennial Parade down Pennsylvania Avenue."

Carol finally made it to Arizona. This month marks her 11th year in Phoenix. She just recently achieved another goal in September when she completed a seven-day rafting trip down the Colorado River in the Grand Canyon. "What a thrill!"

As far as the future goes, Carol seems to have it pretty planned out.

"I plan to stay with POST until retirement, which is not too far off. I became an ordained minister in March 2000 and will continue in that capacity, as well as maintain a home-based business. I also plan to do more traveling. Life is for the living and I'm doing my best to max it out."

AZ Community Policing Institute Update

The Arizona Regional Community Policing Institute is preparing for another busy year of training law enforcement and civilian personnel throughout the state.

In order to provide the most cost-effective training, the Institute will be regionalizing its training for calendar year 2003. The Institute is currently in the process of identifying regional training coordinators throughout the state to host its training sessions. Once this is completed, the training coordinators will meet with their area training representatives to identify which of the

training classes offered by the Institute they would like to have in their area. Institute staff will then compile a statewide training calendar for 2003.

The Arizona Regional Community Policing Institute provides training in the areas of Community Policing, Leadership Development, Domestic Violence, Ethics and Community Assessment.

For further information on any of the above, please contact Rich Kush at 602-223-2560 ext. 264.

Garcia ...

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retical. He is a 20-year veteran of the FBI, retiring in 1986. As a bilingual agent, his assignments took him to Miami, San Antonio, New York and San Juan, Puerto Rico. Throughout these assignments, Garcia gained a tremendous amount of experience in the investigation of general crimes as well as civil rights matters. He worked the last 14 years of his FBI career in Nogales where he continues to live and volunteer.

Among Mr. Garcia's numerous volunteer roles are leadership positions in the Santa Cruz County Republican Party, national convention delegate, and member of the Santa Cruz County Employee Merit System. He also co-founded the Boys & Girls Club of Santa Cruz County.

California born and raised, Mr. Garcia earned a Bachelor of Arts Degree from Ball State University in Muncie, Ind.

The FBI recruited him from Ben Davis High School in Indianapolis where he taught Spanish for three years after college. At a school assembly, two FBI agents gave a talk about communism. While one agent spoke, the other sat next to Mr. Garcia and encouraged him to interview because the FBI was in need of bilingual agents. He did, passed all the tests, and was off to Quantico.

Mr. Garcia has two grown sons, one living in Tucson and one in San Antonio.

Mr. Garcia advises all peace officers to read the Arizona POST Integrity Bulletins. "That knowledge may help keep them from meeting the Board in disciplinary circumstances," Mr. Garcia said. The best advice he ever received was in his teenage years when a supervisor told him, "Never make fun of a job in front of other employees because that may be the only job they can get. And never quit a job before closing time because you put your boss in a bind and you never know when you may need that job again."

Although he certainly does not need the job of POST Board member, Mr. Garcia still honors that advice by being a faithful participant and demonstrating compassion and courage in his treatment of people.

(Mr. Garcia, who has served on the POST Board for almost four years, was appointed chairman of the Board by Arizona Gov. Jane Dee Hull just prior to the publication of this newsletter.)

Ford to Protect Gas Tanks on Crown Vics

Ford Motor Co. agreed to install shields around the gas tanks on 350,000 Crown Victoria police cars across the country after at least a dozen officers were killed in fiery crashes.

Ford's agreement to pay for the modifications and to study ways to make the cars safer came after police departments charged that the vehicles are prone to burst into flames in high-speed, rear-end crashes.

Approximately 80 percent of police cars on the road are Ford Crown Victorias.

Sue Cischke, vice president of engineering for Ford, said the automaker was responding to concerns raised by police nationwide.

"We're trying to make a safe car safer," Cischke said.

Shields made of plastic and rubber will be installed on the rear axle, the differential

and underneath the gas tanks. Those components have either been faulted in accidents or showed the potential to puncture the gas tank in crash tests.

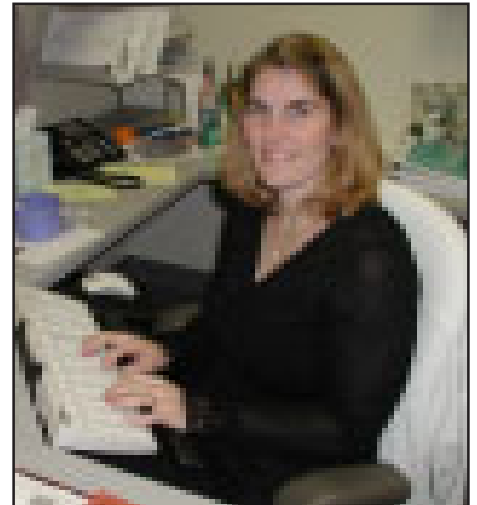
Cischke would not say how much the modifications would cost the company.

"This is a significant step forward in the safety of the Crown Victoria," said former Arizona Attorney General Janet Napolitano.

Three Arizona police officers died in fiery Crown Victoria crashes.

The retrofit kits began arriving at Ford dealerships in late October, and all the shields were installed by January.

The same modifications would not be made to the consumer version of the Crown Victoria, though drivers will be able to by retrofit kits if they want them, according to the Associated Press.



Kimberly Johnson

AZ POST Welcomes Sgt. Kim Johnson

We have selected Sgt. Kimberly Johnson from the Youngtown Police Department to manage the job task analysis and supervisor's training projects. Concurrent with the job task analysis project, Sgt. Johnson will begin to develop focus groups to provide input and identify topic material for the Supervisory Training Program.

This project will be done in two stages; 1) travel the state and find out what program content should be and; 2) put a group together to develop training materials into a complete package that can be used by any agency in the state.

We want to welcome Sgt. Johnson to POST and she will be contacting several of you in the near future.

Domestic Violence Update/Reminder

In a recent case involving an order of protection, the officer arrested the plaintiff and cited her for facilitation of interfering with judicial proceedings, A.R.S. 13-2810. The plaintiff invited the defendant to her home despite the fact that his presence there was a violation of the order of protection.

A city court judge held that the plaintiff **cannot** be charged with facilitation or violation of her own order of protection.

Orders of protection clearly state, "Only the court can change this order. Nothing the plaintiff does can stop, change, or undo this order without the court's approval."

When responding to an order of protection violation call, remember, even if the plaintiff initiates the contact with the defendant, that action does not constitute a crime nor does it void the order.

FY 2002/2003 AZ POST BUDGET

At the regular meeting of the Arizona Peace Officer Standards and Training Board on May 22, 2002, the budget for fiscal year (2002/2003) was approved. The funding source for the AZ POST budget comes from the Peace Officer Training Fund (POTF) which represents 16.64% of the Criminal Justice Enhancement Fund.

CATEGORY	AMOUNT
BASIC TRAINING	\$2,797,290
STANDARDS & CERTIFICATION	\$ 574,828
TRAINING ADMINISTRATION	\$166,718
POST BASIC TRAINING	\$127,672
POST IN-SERVICE TRAINING	\$511,968
POST DISTANCE LEARNING	\$402,634
POST ADMINISTRATIVE SVCS	\$244,372
POST OPERATIONS	\$680,378
POST RESOURCE CENTER	\$91,464
AGENCY ALLOCATION FUNDING	\$409,000
SPECIAL PROJECTS	\$280,000
TOTAL	\$6,286,324

2003 Telecourse Schedule

All dates and topics are subject to change

Date	Time (MST)	Program Title	Satellite Coordinates
February 27 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	Encore Presentation TBA	TBA
April 24 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	Drug Recognition (AZ POST & Cal POST)	TBA
June 19 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	Anti-Terrorism: Part I (AZ POST)	TBA
August 21 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	Anti-Terrorism: Part II (AZ POST)	TBA
September 25 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	2003 Legal Update (AZ POST)	TBA
October 23 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	TBA (AZ POST)	TBA
November 20 2003	10:00 AM - Noon 3:00 PM - 5:00 PM	TBA (AZ POST)	TBA

NOTE: Satellite coordinates are not confirmed until 30 days prior to broadcast and if not provided here, they will be provided on the individual flyers for each program. Due to difficulty in obtaining satellite time, WE MAY BE USING SATELLITES WE HAVE NEVER USED BEFORE. PLEASE MAKE SURE YOU CONFIRM THE COORDINATES ARE PROGRAMMED INTO YOUR RECEIVER PRIOR TO THE DAY OF BROADCAST. Coordinates are also provided with the program materials that are mailed the week prior to the broadcast.

You may also go to www.azpost.state.az.us approximately four days before the broadcast for: (1) tips and information on how to ensure your satellites's configuration and setup capability for this telecourse; (2) a copy of the telecourse student reference guide in Adobe pdf format, (3) a copy of the sign-in sheet (AZPOST form BF) also in pdf format. For agencies experiencing technical difficulties with their satellite systems or in need of additional operating instructions, troubleshooting information is available online at

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